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E C R E T SECTION 01 OF 03 BAGHDAD 000146

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TAGS: [PREL](#) [PGOV](#) [IZ](#)

SUBJECT: DEPUTY PROSECUTOR DESCRIBES TO AMBASSADOR SADDAM'S  
EXECUTION, CONTROVERSIES

Classified By: Ambassador Zalmay Khalilzad for reasons 1.4 (b) and (d).

¶1. (C) Summary: In a January 6 meeting with the Ambassador, Deputy Prosecutor Mongith Al-Faroun described Saddam's execution, including the people present, the cell phone video and the verbal taunts from guards at the scene. He stated that he saw two Iraqi officials using their phones and that once the taunting began he admonished the crowd to stay silent. The Ambassador questioned the execution's timing - one hour before Sunni Eid began - to which al-Faroun replied that religious scholars concluded Eid did not start until sunrise and therefore the execution could proceed. He attributed international condemnation for the execution's timing to the fact that many countries are against the death penalty. He said that President Talabani did not have the authority to change a sentence handed down from the Iraqi High Tribunal which is why he was not asked to sign a decree. When asked what would be different about the two remaining executions, al-Faroun replied that only required witnesses - a prosecutor, judge, a religious leader and the prison director - would be allowed inside. End Summary.

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HOW IT HAPPENED: LAST MINUTE PLANS, GATHERING THE WITNESSES  
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¶2. (C) The Ambassador began the meeting thanking Al-Faroun for his courage, noting that it was not a risk-free endeavor "bringing Saddam to justice." He noted that what happened during the execution "tainted" the entire episode and asked for the prosecutor's perspective. "We need to look back in order to look forward," the Ambassador said, referencing the two other executions still scheduled to occur in January. Al-Faroun described arriving at the Prime Minister's Residence on December 29 after he was informed the execution would occur early the next morning. Included in the planning and discussions were a group of Iraqi advisors from the PM's office and other GOI officials, including National Security Advisor Muwafuq Rubaie.

¶3. (C) Following this meeting, al-Faroun said, the fourteen officials went directly to the helicopter landing zone, LZ Washington located in the International Zone adjacent to the Embassy Annex, for travel aboard a MNF-I helicopter to the execution site. At LZ Washington American personnel searched everyone and took the passengers' cell phones, al-Faroun explained. It was a very "thorough" search, he said. (Note: The Iraqi officials were searched by U.S. Marshals, who took the cell phones for operational security reasons and returned the cell phones once the 14 passengers landed in LZ Washington following the execution. They also checked to ensure that no weapons were carried on the aircraft. End Note). The fourteen officials then boarded two helicopters for the flight to northeastern Baghdad where the execution occurred. The Ambassador asked if al-Faroun knew about a van that allegedly arrived at the execution site with additional

people wanting to witness the execution. Al-Faroun did not know about the van, but said the only witnesses to the actual execution were the fourteen that arrived via helicopter and the guards already at the location.

¶4. (S) Comment: During a final, hasty meeting the evening of 29 December, Dr. Rubaie stated to Ambassador Scobey and MG Gardner that the GOI had developed a plan for the remaining logistical details and accepted the responsibility for the execution. The US would securely transport Saddam to the site, transfer custody, and potentially help with the transportation of remains. No US personnel would be present at the execution or in the adjacent courtyard. The GOI witness list changed several times prior to the execution and at one point included 20-30 personnel. MNF-I agreed to fly 14 witnesses from LZ Washington. The GOI ultimately decided that other witnesses would travel by car. About one hour prior to the execution an SUV arrived at the base. The guards manning the base entry point searched the vehicle for weapons and explosives and then allowed the vehicle to proceed to the execution building. The vehicle included six personnel identified by the GOI as their video personnel and PSD. We do not know if this group was searched by Iraqi guards at the execution site. It is also unknown which of the 6 actually entered the execution building as no US personnel were in the courtyard or building. After the transfer of physical custody of Saddam inside the holding cell building, MNF-I personnel moved away from the execution site to positions around the small MOJ compound. The GOI was responsible for the execution building, access to the building and courtyard, and the conduct of the execution. The GOI's lack of a clear and coordinated plan to control the witnesses and conduct the execution resulted in a hastily run and confusing event. End Comment

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FINAL PLANS: UNTIL THIS POINT, NOTHING IMPROPER OCCURRED  
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¶5. (C) Al-Faroun and the judge immediately separated from the group to meet with Saddam, read the verdict and escort him to the execution room. Al-Faroun said he "sympathized" with Saddam who entered with his covered head, hands tied and shaking involuntarily. The judge then read the verdict and the death sentence. At that point Al-Faroun said, Saddam became more animated and began speaking, "as if he were still the President." Once the readings had finished, al-Faroun explained, the three men, accompanied by four prison guards, walked down a long corridor lined with the fourteen witnesses to the room where the execution would occur.

¶6. (S) The Ambassador asked whether this was the same site Saddam used to execute Dawa party members. Al-Faroun affirmed that it was the same place, but noted that it had also been used for other executions as well. EmbOff confirmed the location has been used previously and that Americans constructed the execution platform. Al-Faroun interjected that the original platform was not built to proper standards, and that as a result criminals were suffering during execution. The new platform requires prisoners to climb a flight of stairs and ensures less suffering, al-Faroun said. The Ambassador then asked whether the four guards were members of Jaysh al-Mahdi (JAM), the militia loyal to Shia extremist Moqtada al-Sadr. Al-Faroun replied that as far as he knew they were official prison guards.

¶7. (C) Rubaie then approached Saddam and asked him if he was afraid. Saddam responded that he was not afraid, that he had been "anticipating this moment" since he first came to power, knowing that as President he had many enemies. Saddam had been holding a Koran and asked who among the witnesses would ensure Awad al-Bandar's son received it. Al-Faroun agreed to

take the book and after Saddam handed it to him the guards retied his hands. Al-Faroun emphasized that up until this point nothing "improper" had occurred.

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...AND THEN THE TAUNTING, THE YELLING, THE PHOTOS BEGIN  
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¶18. (S) The guards then began to tie Saddam's feet at which point he asked who would help him climb the stairs. It was at this moment, al-Faroun said, that a guard told Saddam to "go to hell." Al-Faroun raised his voice immediately and warned people that "he would not allow the guards or witnesses to speak" to Saddam. He turned around, he said, to further admonish the witnesses and saw two government officials openly taking photos with their mobile phones.

¶19. (S) Two guards escorted Saddam upstairs and offered to cover his head with a hood. Saddam refused. The executioner explained that the noose could cut his neck and offered him a cloth to prevent any pain. The prison guards, standing below the platform watched Saddam as he prayed. Before Saddam finished, al-Faroun said, one person shouted "Moqtada, Moqtada, Moqtada." The prosecutor claimed that he again raised his voice to silence the witnesses. This disruption, he said, occurred only once and did not delay the execution. Saddam Hussein died instantaneously. He was removed from the platform and placed in a bag. A religious leader later ensured that Saddam's body had been washed according to Islamic custom.

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CONTROVERSIES - TIMING AND LEGAL ISSUES - AND LESSONS LEARNED  
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¶10. (S) Al-Faroun told the Ambassador that despite the controversies, he witnessed "a condemned person convicted in a legal trial" which had proven Saddam "killed thousands." The Ambassador agreed that Saddam's supporters would use the execution as an excuse to condemn what had been a fair and just trial. However, he continued, there were many people who had been happy to see Saddam brought to justice who were now upset by how the execution occurred. The Ambassador asked about the execution's timing, commenting that having the execution one hour before Sunni's celebrated Eid has angered some people. Al-Faroun replied that there are both social and legal opinions about implementing the death penalty during holidays. The legal opinion, he said, states that criminals cannot be executed on a holiday. The GOI examined the timing, he said, and experts concluded that if

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it finished before sunrise it would not coincide with Eid. The social opinion shared by some members of the international community, he continued, is that the death penalty should not be used at any time regardless of whether it occurs during a holiday. Al-Faroun disregarded this argument, noting that law "does not take into account people's feelings."

¶11. (S) The Ambassador stated that some have questioned the execution's legality given the absence of an "administrative affirmation" from President Talabani. The Ambassador noted that if the PM did not believe an affirmation was necessary, they should have asked Iraqi Chief Justice Medhat to declare this in writing. The prosecutor responded that under Iraqi law the President has the ability to reduce sentences for normal crimes. Saddam's sentence was not presented to the President because in this instance he had no authority to commute the sentence. Article 27 of the Iraqi Criminal Courts law, al-Faroun said, states that sentences issued from the Iraqi High Tribunal cannot be reduced. The reason for this, he explained, is because cases prosecuted here are crimes against humanity instead of crimes against Iraq. An Iraqi leader, therefore, does not have the authority to reduce these sentences.

¶12. (C) The Ambassador asked al-Faroun what the GOI will change in the next two upcoming executions. Al-Faroun responded emphatically that the only witnesses who will be permitted are those required by law: a public prosecutor, a judge, a religious leader and the prison director. This, he concluded, will prevent unacceptable behavior and unnecessary controversy.

KHALILZAD